UNITED STATES PATENT AND TRADEMARK OFFICE

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10/849,185	05/20/2004	Marcel Joseph Louis Mampaey	Q81536	7244

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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _24 March 2009_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the amendment filed on March 24, 2009.

Claims 1-10 are pending. Claims 1-10 represent method for selecting an application

sever, a related call session control network element, a related primary application

server and a related called user terminal.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or

described as set forth in section 102 of this title, if the differences between the

subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ejzak U.S. 6,954,654 in view of Hsu et al. U.S. 20040010473, further in view of

Landherr et al. U.S. 6,880,156.

Ejzak teaches the invention substantially as claimed including provision of services in a communication system including an interworking mobile switching center (abstract).

As to claims 1, 3, 5 and 9, Ejzak teaches a method for selecting an Application Server in an Internet Protocol multimedia network (IMMN) upon reception of an Internet Protocol Multimedia call destined to a called party terminal (CDPT), said method comprising the step of:

a call session control network element (CSCF) (figure 3), and an IP multimedia call (column 2, lines 55-58);

said primary application server (AS.sub.PRIM), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis (column 4, line 46 to column 5, line 4, Ejzak discloses using the interface, MGCF 145 (i.e. "called party") accepts commands from CSCF 143 to perform functions related to the control of a call. Examiner construes that "functions related to the control of a call" includes "analyzing an incoming call, and presents the call to the called party (i.e. MCCF 145) together with a set of service applications for answering the incoming call")

Ejzak fails to teach explicitly intercepting an IP multimedia call.

However, Hsu teaches rule-based packet selection, storage, and access method and system. Hsu teaches intercepting an Internet Protocol multimedia call (paragraph

[0072], Hsu discloses intercepting IP packets from incoming network traffic (i.e. "IP

multimedia call")).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Ejzak in view of Hsu to provide intercepting said

incoming IP multimedia call in order to analyze the network traffic and to correctly bill

the user for his network usage (paragraph [0010]).

Ejzak and Hsu fail to teach explicitly activating an application server.

However, Landherr teaches demand responsive method and apparatus to

automatically activate spare servers. Landherr teaches activating an application server

(column 2, lines 20-22).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Ejzak and Hsu in view of Landherr to provide upon

intercepting said incoming IP multimedia call activating a dedicated primary application

server (AS.sub.PRIM) in order to support the requesting server when the load exceed

the threshold (abstract).

Ejzak fails to teach explicitly a selection of at least one service application from

said set of service applications.

However, Hsu teaches a selection of at least one service application from said

set of service applications (paragraph [0041]).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Ejzak in view of Hsu, further in view of Landherr to

provide said call session control Network element (CSCF) receiving a selection of at

least one service application from said set of service applications forwarded by said

called party terminal (CDPT) in order to analyze use of services based on various

aspects of design of a service such as technical properties of a service, content of a

service, service quality, availability and usability.

As to claim 2, Ejzak teaches the method for selecting an Application Server

according to claim 1, characterized in that said method further comprises the step of:

said call session control network element (CSCF) based on said at least one

selected service application invoking at least one secondary Application Server

(AS1...ASn) corresponding to said at least one selected service application (column 16,

lines 1-9).

As to claim 4, Ejzak teaches the Call Session Control network element (CSCF)

according to claim 3, CHARACTERISED IN THAT said Call Session Control network

element (CSCF) further comprises a Secondary Application server invocation means

(SASIM), coupled with an input to an output of said Selection receiving means (SRM)

and adapted to activate based on said at least one selected service application at least

one secondary Application Server (AS1 . . . ASn) corresponding to said at least

one selected service application (column 16, lines 1-9).

As to claim 6, Ejzak teaches the Primary Application Server (AS.sub.PRIM)

according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via an HyperText Transfer Protocol session (column 3, line 66 to

column 4, line 9).

As to claim 7, Ejzak teaches the Primary Application Server (AS.sub.PRIM)

according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via an Wireless Application Protocol session (column 7, lines 19-26).

AS to claim 8, Ejzak teaches the Primary Application Server (AS.sub.PRIM)

according to claim 5, CHARACTERISED IN THAT said call presentation information

forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering

said incoming call via said Call session control network element (CSCF) (column 9,

lines 4-11).

As to claim 10, Ejzak teaches the Called Party Terminal (CDPT) according to

claim 9, CHARACTERISED IN THAT said application presentation means (APM) is a

web-browser (column 3, lines 16-22, Ejzak discloses that the invention is designed to

use emerging internet standard such as SIP (i.e. text-based protocol that is based on

HTTP and MIME, which makes it suitable and very flexible for integrated voice-data applications. SIP is designed for realtime transmission, uses fewer resources and is considerably less complex than H.323. Its addressing scheme uses URLs and is human readable (i.e. "web browser"); for example: sip:john.doe@company.com) for IMS (IP multimedia subsystem) signaling for establishing a call).

Response to Arguments

4.   Applicant's arguments filed 03/18/09 have been fully considered but they are not persuasive.

(A)   Applicant argues that Ejzak does not teach or suggest that "after analyzing of an incoming IP multimedia call, the S-CSCF presents the call to the called party together with a set of service applications for answering the incoming call, as claimed".

In regards to point (B), examiner respectfully disagrees.

In column 4, line 46 to column 5, line 4, Ejzak discloses using the interface, MGCF 145 (i.e. "called party") accepts commands from CSCF 143 to perform functions related to the control of a call. Examiner construes that such "functions related to the control of a call" includes "analyzing an incoming call, and presents the call to the called party (i.e. MCCF 145) together with a set of service applications for answering the incoming call".

(B)   Applicant argues that nowhere does Landherr teach or suggest that a "call
session control Network element (CSCF) upon intercepting said incoming IP multimedia
call activating a dedicated primary application server", as recited in the claims.

In regards to point (A), examiner respectfully disagrees.

Examiner did not address the whole argued feature using Landherr alone. Such
limitation was addressed using Landherr and Hsu in combination with Ejzak. It would
have been obvious to one of ordinary skill in the art at the time the invention was made
to combine Ejzak and Hsu in view of Landherr to provide upon intercepting said
incoming IP multimedia call activating a dedicated primary application server
(AS.sub.PRIM) in order to support the requesting server when the load exceed the
threshold (abstract).

(C)   Applicant argues that the Examiner also acknowledges that Ejzak does
not teach or suggest "said call session control Network element (CSCF) receiving a
selection of at least one service application from said set of service applications
forwarded by said called party terminal", as recited in the claims. The Examiner thus
cites paragraph [0041] of Hsu as allegedly teaching this aspect of the claims.
Applicant respectfully disagrees with the Examiner and further submits that Hsu has no
relevance to the claimed invention

In regards to point (C), examiner respectfully disagrees.
In paragraph [0041], Hsu discloses each packet is typically divided into a plurality of
fields, whose function is defined by a predetermined protocol. The rules can compare,

for example, one or more fields in an incoming packet with predetermined values and

select that packet for logging if the appropriate values are present. The selection of that

packet is construed by Examiner as "a selection of at least one application from said

set of service application". Furthermore, the Examiner recognizes that obviousness can

only be established by combining or modifying the teachings of the prior art to produce

the claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to

one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.

Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this

case, on would be motivated to do so in order to analyze use of services based on

various aspects of design of a service such as technical properties of a service, content

of a service, service quality, availability and usability.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

Examiner has cited particular columns and line numbers in the references

applied to the claims above for the convenience of the applicant. Although the specified

citations are representative of the teachings of the art and are applied to specific

limitations within the individual claim, other passages and figures may apply as well. It

is respectfully requested from the applicant in preparing responses, to fully consider the

references in entirety as potentially teaching all or part of the claimed invention, as well

as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to

indicate the portion(s) of the specification which dictate(s) the structure relied on for

proper interpretation and also to verify and ascertain the metes and bounds of the

claimed invention.

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to El Hadji M Sall whose telephone number is 571-272-

4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2457

/Salad Abdullahi/

Primary Examiner, Art Unit 2457